REMARKS

Claims 88-92, 94 and 117-177 are pending in the application. Claims 88-94, 118-120, 135, 150 and 152-157 were previously allowed. Allowed claims in the presently addressed Office Action are 118-119, 124, 152 and 165-171.

Claim 88 had been allowed in the previous Office Action. For the sake of clarity, the claim was amended to use terminology (i.e., "purified and isolated") that was consistent with that of the remaining claims (e.g., allowed claims 118-120). In accordance with its common usage in biotechnology, the phrase "purified and isolated nucleic acid sequence" was used in the present application and claims to refer to nucleotide sequences which are not in a naturally occurring form. No further changes were made nor new matter added. The Examiner, however, rejected the claim under Section 112, first paragraph, citing the "amino-terminal methionine residue" as new matter even though that claim language was previously allowed.

Similarly, claims 89-93 had previously been allowed, and no amendments were made to these claims in the last response. The Examiner, however, disallowed these claims.

Section 101 Rejections

Claims 90, 92, 127-128, 133-134, 138, 140-142, 144 and 159-161 were rejected as directed to non-statutory subject matter based on the current recitation of "a host cell" which the Examiner asserts encompasses a human organism.

The terminology "transformed or transfected" was used in the claims to identify a cell's status as a non-naturally occurring organism. This term was used because that was the language used in the specification. Provided that the Examiner will make of record his decision that the term "isolated" is a commonly used term to likewise identify the cells as non-naturally occurring organisms then Applicants would insert the suggested amendment. Alternatively, Applicants respectfully submit the term "transformed or transfected" should be acceptable as denoting the same information that the Examiner seeks to clarify.

Claim 90 had previously been allowed and was not amended in the last response. The Examiner appears to have withdrawn that allowance on the basis of seeking further clarification.

The claim currently provides for a transformed or transfected host cell which indicates the cell's status as a non-naturally occurring organism. The claim has been amended to place that language before the term "host cell" to further clarify this point. Thus, Applicants respectfully submit that the rejection of claim 90 and dependent claim 92 may properly be withdrawn.

Claims 127 and 138 have been similarly amended. Therefore, the dependent claims (128, 133-134, and 144 and 140-142, respectively) are also in allowable form. Claims 159-161 already recite the non-naturally occurring "transformed or transfected host cell" terminology, and therefore, Applicants respectfully submit that the rejection may properly be withdrawn.

Section 112, First Paragraph Rejections

The Examiner rejected claims 88-90, 92, 94, 117, 121-123, 125-134, 143-149, 151 and 158 asserting that these claims "are again rejected" as containing subject matter not described in the specification. Claims 88-94, however, had previously been allowed, and no amendments had been made to add new subject matter.

The Examiner rejected claims 88, 122 and 151 which describe a nucleic acid molecule encoding a polypeptide which includes an amino-terminal methionine residue. The Examiner asserts that no basis for the amino-terminal methionine residue had been provided in the specification other than with reference to bacterial expression systems, and therefore, no other molecule is contemplated. Applicants respectfully point out that while a bacterial expression system may produce a polypeptide with an amino-terminal methionine residue, there is no requirement that an animal cell could not also contain a nucleic acid molecule encoding such a polypeptide. The specification clearly describes the molecule and does not state any requirements that such a molecule "is contemplated for only" bacterial expression system use. Therefore, the claim is properly based, and the rejection should properly be withdrawn. For the sake of expediting the prosecution of the present application, the claims have been amended to clarify that in a bacterial expression system an amino-terminal methionine residue may be encoded by the nucleic acid molecule when the polypeptide is recombinantly produced. Additional claims will be addressed in a copending case.

Claims 117, 121 and 125 have been amended to recite the two previously claimed sets of

hybridization conditions separately, and therefore, hopefully more clearly. Applicants were in no way attempting to add new matter. The previous claim language was used merely for the sake of brevity. The present amendments describe the hybridization reactions as suggested by the Examiner. Thus, Applicants respectfully submit that the rejection of these claims, as well as those claims which depend therefrom, may properly be withdrawn.

Section 112, Second Paragraph Rejections

Claims 117, 120, 122-123, 125-151, 161-164, 172-174 and 177 were rejected under section 112, second paragraph, on the basis that the recitation of "% identity is indefinite". Without acceding to this assumption and to facilitate prosecution of this application, Applicants have amended the claims thereby rendering this rejection moot; such subject matter to be pursued in a companion application.

For the foregoing reasons and in view of the amendments, Applicants respectfully request reconsideration of and withdrawal of the outstanding rejections. Applicants' representative would appreciate the opportunity to talk with the Examiner, in person or by telephone, to discuss any remaining questions and facilitate the prosecution and allowance of the application or to place the case in better form for appeal.

Respectfully submitted,

Daniel R. Curry

Daniel R. Curry
Attorney for Applicants
Registration No: 32,727
Phone: (805) 447-8102
Date: November 5, 1998

Please send all future correspondence to:

U.S. Patent Operations/DRC
M/S 27-4-A
AMGEN INC.
One Amgen Center Drive
Thousand Oaks, California 91320-1789